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October 15, 2020

Honorable Kimba M. Wood
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

BY ECF

Re: *Stephenson v. United States*, 19 Civ. 10652 (KMW)

Dear Judge Wood:

Petitioner Ryan Stephenson respectfully submits this letter to request an approximately two-week adjournment of the evidentiary hearing (the “Hearing”) currently scheduled for October 19, 2020. We have conferred with the government, and the government consents to this request. An adjournment is necessary because the government two days ago produced to us two sets of notes

(the “Notes”) as well as signed proffer agreements from proffer sessions between Mr. Stephenson and the government in 1999, which the government intends to use as hearing exhibits. Also on Tuesday of this week, the government for the first time gave us notice of its intention to request leave of Court to call two former postal inspectors as witnesses, either in its primary presentation or in rebuttal. The parties have conferred and are available any time on the following dates: 11/2, 11/4, 11/6, 11/9, 11/13, 11/16, and 11/17, with a preference for the first two weeks of November, if feasible.

By way of background, we have previously addressed the issue of the production of the Notes in multiple letters to the Court. On June 11, 2019, Mr. Stephenson submitted a Freedom of Information Act (“FOIA”) request on the Executive Office for United States Attorneys (“EO”) seeking, among other things, “notes or memoranda of any meetings relating to the above-captioned case taken or maintained by members of the USAO, U.S. Postal Inspectors, or any other investigative staff working with the USAO.” (Dkt. 9-6). The EO did not produce any documents or refer to any documents specifically being withheld in response to this request.

On March 3, 2020, the government wrote a letter to the Court alerting the Court (and Mr. Stephenson) that it possessed the Notes and represented that these were evidence that immigration consequences were not discussed in meetings between the government and Mr.

**Granted
-KMW**

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Stephenson. (Dkt. 21). On March 5, 2020, Mr. Stephenson responded by letter to the Court, (Dkt. 22), that the government had denied Mr. Stephenson's request for the notes, but, based on the government's limited representation about their contents, it seemed that they were a substantially incomplete accounting of the conversations between Mr. Stephenson and the government and/or did not relate to the pertinent meeting(s).

The government, in an August 3, 2020 letter relating to certain attorney affirmations ordered by the Court, reasserted its claim that the Notes were evidence that immigration consequences were not discussed in meetings between the government and Mr. Stephenson. (Dkt. 25). On August 7, 2020, Mr. Stephenson again contended that he understood the Notes to be either incomplete and/or to not relate to the pertinent meeting(s). (Dkt. 26).

On October 1, 2020, the parties conferred regarding potential exhibits and witnesses for the upcoming hearing. The government stated that it did not, at that time, plan to call any witnesses other than Mr. Stephenson or his prior attorney, George Goltzer. The government also did not disclose any intention at that time to use the Notes as exhibits.

Two days ago, on the evening of October 13, 2020, the government for the first time produced the Notes to Mr. Stephenson and informed him that it intended to use the Notes as exhibits at the upcoming Hearing. Additionally, the government informed Mr. Stephenson for the first time that it was considering calling two former postal inspectors as witnesses, either in its primary presentation of the evidence or in rebuttal to testimony by Mr. Stephenson. That same evening we responded to the government by email that we might need to request an adjournment in light of these disclosures.

Mr. Stephenson requests this brief adjournment to better understand the import of the Notes and to gather any available evidence regarding the discussion that occurred at the proffer sessions memorialized by the Notes and to consider whether to oppose their admission. Additionally, Mr. Stephenson seeks to better understand the import of the potential testimony of the former postal inspector witnesses. The government consents to this request.

We appreciate the Court's consideration of this letter.

Respectfully,

/s/ Noam Greenspan

Noam Greenspan

cc: AUSA Kaylan Lasky (by ECF)
AUSA Nicholas Folly (by ECF)

The Court assents to adjourning the hearing. The parties should confer regarding what two successive days they can be available for the hearing. Any documents to be used at the hearing must be given to the Court one week before the commencement of the hearing.

**SO ORDERED.
Dated: New York, NY
October 16, 2020**

**/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge**